

REMARKS/ARGUMENTS

Claims 1-39 are pending in the present application. Claims 2, 6-11, 16, 20-25, 29, 30 and 34-38 have been amended herewith. Reconsideration of the claims is respectfully requested.

In view of the fact that Claim 39 was searched and examined by the Examiner pursuant to the present Office Action dated November 7, 2007 (as confirmed with the Examiner in a phone call dated February 5, 2008), notwithstanding the previous Restriction Requirement dated September 17, 2007 and Applicants' Election with request to cancel Claim 39 dated October 12, 2007, Applicants hereby expressly withdraw/rescind the previous request to cancel Claim 39, as suggested by the Examiner in a phone call dated February 5, 2008. Thus, Claims 1-39 are pending in the present application.

I. Objection to Claims

Claims 2, 6-10, 14, 16, 20-25, 28, 31 and 34-38 were objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. In response, the claims have been rewritten to overcome this objection. In particular, the claims have been amended such that the dependent claims further limit their respective independent claim. For example, the amendment to Claim 2 further limits Claim 1 in that more detailed features/characteristics with respect to the first and second flags used by the selectively verifying step of Claim 1 are now recited in such claim. The amendment to Claim 16 further limits Claim 15 in that more detailed features/characteristics with respect to the first and flags used by the selectively verifying means of Claim 15 are now recited in such claim. The amendment to Claim 30 further limits 29 in that more detailed features with respect to the first and second flags used by the second instructions of Claim 29 are now recited in such claim. Claims 6-10, 14, 20-24, 28 and 34-38 similarly further limit independent Claims 1, 15 and 29, respectively, by recited further limiting features/characteristics with respect to the first flag that is used by the selectively verifying step, selectively verifying means, and the second instructions, respectively.

It is also believed the inclusion of Claim 25 in this list of objected claims is a typographical error, as related Claims 11 was not similarly objected to, and that the inclusion of Claim 31 was intended to instead be Claim 30 due to Claim 30 being related to objected-to Claims 2 and 16.

Therefore, the objection of Claims 2, 6-10, 14, 16, 20-25, 28, 31 and 34-38 has been overcome.

II. 35 U.S.C. § 112, Second Paragraph

Claims 2, 6-10, 14, 16, 20-25, 28, 30 and 34-38 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention. This rejection is respectfully traversed.

With respect to Claims 2, 6-10 and 14, the Examiner states such claims are incomplete for omitting essential steps such as any step connecting the data structures in Claims 2, 6-10 and 14 to the steps of Claim 1. For similar reasons to those described above with respect to the objection to these claims, Applicants have amended such claims to directly tie-in such claims with the selectively identifying step recited in Claim 1, and thus there is a direct linkage between these Claims 2, 6-10 and 14 and independent Claim 1.

With respect to Claims 16, 20-25 and 28, the Examiner states such claims are incomplete for omitting essential structural cooperative relationships such as any structural elements connecting the data structures in Claims 16, 20-25 and 28 to the steps (sic) of Claim 15. For similar reasons to those described above with respect to the objection to these claims, Applicants have amended such claims to directly tie-in such claims with the selectively identifying means recited in Claim 15, and thus there is a direct structural relationship between these Claims 16, 20-25 and 28 and independent Claim 15.

With respect to Claims 30 and 34-38, the Examiner states such claims are incomplete for omitting essential elements such as any instructions connecting the data structures in Claims 16, 20-25 and 28 to the product/program/signal of Claim 30 (sic). For similar reasons to those described above with respect to the objection to these claims, Applicants have amended such claims to directly tie-in such claims with the second instructions for selectively identifying that is recited in Claim 29, and thus there is a direct linkage between these Claims 30 and 34-38 and independent Claim 29.

Therefore, the rejection of Claims 2, 6-10, 14, 16, 20-25, 28, 30 and 34-38 under 35 U.S.C. § 112, second paragraph has been overcome.

III. 35 U.S.C. § 101

Claims 29-38 stand rejected under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

Applicants have amended Claim 29 in accordance with the Specification description on page 30 regarding a recordable-type medium, in order to overcome the Examiner's concerns regarding programs/signals, and such claim is now in a form expressly acknowledged as being allowable per the USPTO's Interim Guidelines for statutory subject matter¹.

¹ Per Annex IV of such Guidelines: When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

Therefore, the rejection of Claims 28-39 under 35 U.S.C. § 101 has been overcome.

IV. 35 U.S.C. § 103, Obviousness

Claims 1-39 stand rejected under 35 U.S.C. § 103 as being unpatentable over Maczawa, et al. (US Patent No. 6,145,024 A), hereafter referred to as “Maczawa” in view of Kondo, et al. (US Patent No. 6,618,396 B1), hereafter referred to as “Kondo” and Lansing, et al. (US Patent Application Publication No. 2003/0058862 A1), hereafter referred to as “Lansing”. This rejection is respectfully traversed.

With respect to Claim 1, such claim recites receiving, from a second partition in an interpartition virtual network, a data packet at a first partition of the interpartition virtual network. Thus, there are at least two partitions of the interpartition virtual network, and a packet from one of these partitions is received at another of these partitions. Hence, Claim 1 is directed to an interpartition transfer of a data packet between two partitions of the interpartition virtual network. In rejecting Claim 1, the Examiner states that such data packet exchange between two partitions is taught by Maczawa at col. 3, lines 60-65, col. 12, lines 1-12 and Figure 1. Applicants urge error in such assertion, as while Maczawa may describe a logical partitioned data processing system, it does not describe the sending/receiving of data packets *between partitions* of such logical partitioned data processing system, but instead describes that while one partition is *externally transmitting data using a channel path* that is shared by other partitions (Maczawa col. 12, lines 13-34; Figure 2, I/O device at 21), the other partitions must wait to use the shared channel path until the partition using the channel path completes its external transmission. This can clearly be seen by Maczawa at col. 12, lines 1-12 where it states:

In such a well-known arrangement as AMIF (ACONARC Multiple Image Facility) for MLPF (Multiple Logical Processor feature), input/output operations for plural LPARs (Logical PARTitions) sharing channel paths are carried out on a single channel path. *In this arrangement, each channel path becomes busy for a certain input/output operation while an input/output operation for another LPAR is in progress, and a new request for an input/output operation is not accepted until a link-connected state is released.* On each channel path, a total capacity of data transfer is allocated to each input/output operation.

The fact that one partition must wait until the other partition completes transmission evidences that this data transmission is *not between the partitions themselves*, because if one partition were transmitting to the other there would be no reason to wait – instead, one partition would be transmitting the data packet to the other partition, and this other partition would be simultaneously receiving the data packet being

transmitted by the first partition. Because the cited reference describes one partition must wait on the other to complete transmission, there is no Maczawa teaching of such inter-partition transmission/receipt of a data packet, as per the features of Claim 1. Thus, for this reason alone it is urged that a proper prima facie showing of obviousness has not been established by the Examiner due to this all-elements-rule deficiency².

Still further with respect to Claim 1, none of the cited references teach or suggest the use of two different flags in *determining whether to verify a checksum*. In rejecting this aspect of Claim 1, the Examiner cites Lansing's use of a single flag in determining whether to *generate a checksum*, and Kondo's teaching of using a flag to determine whether to perform a CRC check on data as teaching such claimed feature. Applicants urge two-fold error in such assertion. First, both references describe use of but a single flag to perform their respective conditional processing, whereas per Claim 1 two flags are used together to determine whether to conditionally perform a particular processing step. Two separate/distinct teachings of use of a *single flag* does not teach or suggest use of *two flags in combination* to determine whether to conditionally perform a particular processing step, as claimed. Second, contrary to the Examiner's assertion, Lansing does not teach use of a flag to conditionally determine whether to *verify a checksum*. Instead, Lansing describes use of flag to conditionally determine whether to *generate a checksum*. The generation of a checksum is very different from the verification of a checksum (Specification page 2, lines 3-6). Thus, it is further urged that the Examiner has failed to properly establish a prima facie showing of obviousness due to these additional claimed features that are not taught or suggested by the cited references.

Applicants initially urge error in the rejection of dependent Claims 2-14 for reasons given above with respect to Claim 1.

Further with respect to Claim 2, such claim further defines the two flags of Claim 1 to be a 'no checksum flag' and a 'checksum good flag'. As can be seen, both flags pertain to checksums. In rejecting Claim 2, the Examiner cites Kondo's ECC flag as being equivalent to one of these claimed checksum flags. Applicants have amended Claim 2 to further emphasize that the two checksum-related

² In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

flags pertain to a checksum status of (i) whether a checksum is actually included and (ii) whether a checksum has already been verified. It is urged that the Kondo ECC flag does not meet either of these claimed checksum status, and therefore Claims 2 is not obvious in view of the cited references.

Further with respect to Claim 3, such claim recites “verifying the checksum for the data packet if the first flag and the second flag are unset”. In rejected Claim 3, the Examiner states that the Lansing/Kondo combination teaches this claimed feature since Lansing teaches verifying the CRC if CRC is present as indicated by the first CRC flag, and Kondo teaches verifying the checksum if there are no errors in the packet as indicated by a second ECC flag. For similar reasons to those previously described, and contrary to the Examiner’s assertion, Lansing does not teach conditional *verification* of a CRC but instead teaches conditional *generation* of a CRC. Thus, it is further urged that the Examiner has failed to properly establish a prima facie showing of obviousness with respect to Claim 3 due to these additional claimed features that are not taught or suggested by the cited references.

Further with respect to Claim 4, such claim recites “skipping verification of the checksum if the first flag is set”. In rejecting Claim 4, the Examiner states that the cited Lansing reference teaches such *verification* skipping step. For similar reasons to those previously described, and contrary to the Examiner’s assertion, Lansing teaches skipping of CRC *generation*. Generation and verification operations with respect to CRC are very different types of operations, and a teaching of one does not teach or suggest the other. Thus, it is further urged that the Examiner has failed to properly establish a prima facie showing of obviousness with respect to Claim 4 due to these additional claimed features that are not taught or suggested by the cited references.

In rejecting Claim 5, the Examiner states Kondo teaches that skipping the checksum value occurs if there are errors in the packet as indicated by the second ECC flag. Applicants urge that Claim 5 does not recite any skipping that occurs based on whether there are errors. Instead, Claim 5 recites “skipping verification of the checksum for the data packet *if the first flag is unset and the second flag is set*” (emphasis added), which is a two-pronged condition that must be met to invoke the skipping step. Quite simply, the use of a single flag as described by Kondo does not teach or otherwise suggest the claimed two-pronged conditional processing step. Thus, it is further urged that the Examiner has failed to properly establish a prima facie showing of obviousness with respect to Claim 5 due to these additional claimed features that are not taught or suggested by the cited references.

In rejecting Claims 6-10, the Examiner provides a very high-level, broad-brushed approach in the analysis of the particular features recited in such claims, and states that the Lansing/Kondo reference teaches all features recited in all of Claims 6-10 since this combination is alleged to teach ‘adaptive parameters’ for allowing a sending station to notify a receiving station whether a transmitted packet has redundancy and errors. Applicants urge that such generalized assertion does not establish a prima facie

showing of obviousness with respect to the particular detailed features recited in each of Claims 6-10. For example, Claim 6 recites that the first flag is unset if the packet was *received through a virtual adapter associated with the first partition*; Claim 7 recites that the first flag is set if *the data packet, received from the second partition, originated from within the logical partitioned data processing system*; Claim 8 recites that the first flag is unset if the data packet, received from the second partition, *was received from outside the interpartition virtual network* in the logical partitioned data processing system without the checksum being checked; and Claim 9 recites that the first flag is unset and the second flag is unset if the data packet was *received by a physical network adapter associated with the second partition*, where a checksum offload is unsupported by the physical network adapter. As can be seen, these claims include features pertaining to the communication network environment itself, and go well beyond the Examiner's assertion with respect to 'adaptive parameters' with respect to first and second ECC flags. Thus, it is further urged that the Examiner has failed to properly establish a prima facie showing of obviousness with respect to Claims 6-10 due to the Examiner's failure to individual address the specific claimed features recited in such claims.

Applicants traverse the rejection of Claims 15-39 for similar reasons to those given above with respect to Claim 1.

Applicants further traverse the rejection of Claims 16 and 30 for similar reasons to the further reasons given above with respect to Claim 2.

Applicants further traverse the rejection of Claims 17 and 31 for similar reasons to the further reasons given above with respect to Claim 3.

Applicants further traverse the rejection of Claims 18 and 32 for similar reasons to the further reasons given above with respect to Claim 4.

Applicants further traverse the rejection of Claims 19 and 33 for similar reasons to the further reasons given above with respect to Claim 5.

Applicants further traverse the rejection of Claims 20 and 34 for similar reasons to the further reasons given above with respect to Claim 6.

Applicants further traverse the rejection of Claims 21 and 35 for similar reasons to the further reasons given above with respect to Claim 7.

Applicants further traverse the rejection of Claims 22 and 36 for similar reasons to the further reasons given above with respect to Claim 8.

Applicants further traverse the rejection of Claims 23 and 37 for similar reasons to the further reasons given above with respect to Claim 9.

Applicants further traverse the rejection of Claims 24 and 38 for similar reasons to the further reasons given above with respect to Claim 10.

Therefore, the rejection of Claims 1-39 under 35 U.S.C. § 103 has been overcome.

V. **Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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